

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
COUNTY OF NEWPORT**

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 13th day of July 2009 A.D. at 7:00 p.m.

Vice President Arruda opened the meeting with the Pledge of Allegiance to the Flag.

<b>Roll Call:</b>	<b>Donald Bollin-President- Absent</b>	<b>Jay Lambert</b>
	<b>JoAnne Arruda-Vice President</b>	<b>Cecil E. Leonard</b>
	<b>Hannibal Costa</b>	<b>Edward Roderick</b>
	<b>Louise Durfee</b>	

Town Administrator, James C. Goncalo  
Town Solicitor, Andrew M. Teitz were also present.

**Approval of Consent Agenda:**

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Councilor Roderick read the items on the Consent Agenda.

Councilor Durfee requested the removal of item A-4, Abatements. Councilor Arruda requested the removal of item A-3f, letter about moorings on behalf of Harbor Master Dave Vannier.

Councilor Leonard made a motion, seconded by Councilor Durfee to approve the remaining items on the Consent Agenda. Motion passed unanimously.

The Consent Agenda was as follows:

**CONSENT AGENDA**

**A-1-Approval of Minutes of Previous Meetings.**

- Approval of Council Workshop Minutes from June 29, 2009
- Approval of Minutes from June 22, 2009 Regular Council Meeting Councilor Leonard abstained - Absent
- Approval of Executive Session Minutes from June 22, 2009 Council Meeting Councilor Leonard abstained – Absent
- Approval of Executive Session Minutes from March 12, 2009 Council Meeting Councilor Leonard abstained - Absent

**A-2-Receipt of Minutes from Various Board and Commissions:**

- |                                     |                               |
|-------------------------------------|-------------------------------|
| a. Recycling/Landfill Committee (2) | d. Open Space Commission      |
| b. Conservation Commission          | e. School Committee           |
| c. Harbor Commission                | f. Waste Water Commission (2) |

**A-3-Correspondence**

- Received From Housing Works RI Regarding Fifth Edition Fact Book on Affordable Housing – Book Available in Clerk Office
- Received From State Traffic Commission Regarding Parking on Main Road
- Received From Pat Sullivan, Tiverton Conservation Commission Regarding Crosswalks on Main Road
- Received From Michael Leighton, CEO Tiverton Power, Inc. Regarding Comments From Public Hearing on Zoning Map Change Request at Town Council Meeting June 8, 2009

- e. Received From Brayton Woods Owner's Association Regarding Opposition to Expansion of Tiverton Power Plant
- g. Received From City of Pawtucket Regarding Resolution Requesting Governor Carcieri Hold an Education Summit
- h. Received Form Town of Warren Regarding Resolutions Pertaining to Opposing Electric Rate Increase, Opposing Health Insurance Rate Hikes and Supporting House Bill H5039 Related to Drunk Drivers
- i. Response to Mr. Alan Chase Regarding Distribution of Information Sent to Council

**Received From Dr. Jeremiah Lowney, Jr. Regarding Moorings in Both Tiverton and Portsmouth Sides of Tiverton Basin on Sakonnet River – Copy Forwarded to Harbor Master and Harbor Commission**

Councilor Arruda requested removal of this item. Harbormaster David Vannier presented the Clerk with a list of moorings he planned to include in a response letter to Dr. Lowney regarding moorings on the Tiverton side of the basin. No new basin moorings will be issued.

**Approval of Tax Assessor Abatements**

Councilor Durfee requested removal for discussion. The \$300,000 for Abatements which the Administrator asked for at the Financial Town Meeting (FTM) was voted down, suggests to the Treasurer an expenditure sheet with the amount of abatements approved, way of keeping track. Money must come from revenue or the Budget. Town Administrator Goncalo (T/A) intends to reduce expenditures by abatements as brought to Council. Monthly reports to be distributed. Town Treasurer responded not problem, will do with reports.

Councilor Roderick made a motion, seconded by Councilor Leonard that A-3f and A-4 be approved with changes and explanations. Motion passed unanimously.

**BUSINESS BROUGHT BEFORE THE COUNCIL:**

**FINANCIAL BUSINESS:**

**Town Administrator – Request Approval to Carry Forward the Balance of \$79.33 in Account #665-690 Arts Council Expenses**

Councilor Durfee made a motion, seconded by Councilor Roderick to approve the request to Carry Forward \$79.33 in Account #665-690 (Arts Council Expenses) to F/Y 2009/2010. Councilor Costa questioned timing of Carry Forward; T/A noted the request came in on June 24<sup>th</sup>, which was after the last Council Meeting. Motion passed 5-1, Councilor Costa opposed.

**Town Administrator – Request Approval of Wastewater Budget for Fiscal Year 2009-2010**

Administrator Goncalo and Wastewater Superintendent John Lincourt reviewed the Budget asking Council's approval. Councilor Durfee questioned the sewer usage fee to Fall River down. The City of Fall River pulled out the tunnel project from WW fees, which caused them to go down.

Councilor Durfee made a motion, seconded by Councilor Leonard the proposed operating Budget for Wastewater Management be approved. Motion passed unanimously.

**Town Clerk – Request Carry Forward \$3,300 to Hold in Reserve for Mailing Notice on No Bin/No Barrel Program From Acct 197-550 (Probate Recording) and Acct 103-623 (Board of Canvassers Supplies)**

Town Clerk, Nancy Mello, requested the funds, which would have been returned to general fund on June 30, were still available and not used by those departments. Funds to be used for mailing notices on the "No Bin/No Barrel" program.

Councilor Durfee made a motion, seconded by Councilor Leonard to approve the request to Carry Forward and reserve \$1,600 from Account #197-550 and \$1,700 from Account #103-623. Motion passed unanimously.

**APPOINTMENTS & RESIGNATIONS**

**Diana Toste -Resignation from Recreation Commission**

Councilor Costa made a motion, seconded by Councilor Durfee to accept with regret the Resignation of Diana Toste from the Recreation Commission. Motion passed unanimously.

**Appointment of Chris Roemlein for Unexpired Term to 6/30/2010 Interviewed by Council on January 2009**

Councilor Durfee made a motion to appoint Chris Roemlein to the Recreation Commission for an unexpired term ending 6/30/2010. Roemlein had previously been interviewed in January for next vacancy. Motion passed unanimously.

Councilor Leonard noted the Council previously interviewed Mr. Roemlein.

**Interview Christopher M. Higgins, 80 Grinnell Avenue – Vacancy on Cemetery Committee**

Mr. Higgins, an abutter to the Cemetery was interviewed at this time. Town Clerk noted there were other applicants and would be advertising for vacancies still remaining. Councilor Durfee thanked Mr. Higgins. Appointments will be made on August 11<sup>th</sup>.

**UNFINISHED BUSINESS**

**Chris Spencer, Town Planner – Request Public Hearing on Proposed Zoning Changes Continued From June 22<sup>nd</sup> Meeting**

**a. Report From Town Solicitor Andy Teitz**

Town Planner, Christopher Spencer, handed out a proposed zoning amendment schedule to the Council. Noted the Planning Board would like to see the drafts before they come to Council, and he would not be available to make the August 24<sup>th</sup> meeting. Schedule D offers more flexibility, which was fine with Solicitor Teitz.

Councilor Durfee made a motion that Schedule D would be appropriate to follow. Seconded by Councilor Costa motion passed unanimously.

Solicitor Teitz noted on page 2 of the Memorandum he presented, would like to see the creation of a Zoning Revision Advisory Committee, could be appointed at the next Council Meeting. Have to do a compliance review of the Zoning Map, the pending Zoning Amendments and the new requests for Zoning. Good idea to have a committee review and coordinate amendments. The Zoning Board does have to deal with amendments. Doesn't see as a formal body, Council gets educated from scratch. Has served on similar Boards, local attorneys add practical things, people who deal with everyday matters, find useful, finds the process as moving quicker.

Mr. Spencer was generally opposed, sees as an added layer, and according to State Law has to go to Council first. To coordinate 14 people, problematic at best, changes should come from a workshop. Larger problem, Zoning out of reality and lacks common sense. With GIS mapping ready to go online, can do queries and get to the Planning Board quicker. Finds it would be hard to manage.

Councilor Durfee noted if you have stakeholders as a group, process will move faster. Councilor Costa suggested a change in the process; refer Zoning to Council not Planning. Mr. Spencer noted the Planning Board did create an ad-hoc committee for this purpose. Councilor Durfee noted Solicitor Teitz proposal had merit. Councilor Roderick agreed the scope and number of people would only delay. Mr. Spencer also proposed the draft zoning amendments could be sent to various groups to get comments first.

Solicitor Teitz, in response to Councilor Costa, the Planning Board is a statutorily requirement, will help Planning by doing the drafting with a smaller group, then vet by the advisory committee, then to Planning Board and then to Council.

Councilor Arruda questioned the number of people needed. Solicitor Teitz doesn't expect all to show for every meeting thinks this is a time saver. Councilor Costa asked if Mr. Spencer had an alternate plan. Mr. Spencer noted this plan was open ended as to how it would operate; need to know so the process won't be held up. Councilor Costa wanted to see something with structure from Mr. Spencer. Councilor Durfee suggested voting on a concept, however it's constituted. Councilor Leonard disagreed, was creating another level the Council didn't need.

Councilor Lambert made a motion to postpone to the next meeting, Mr. Spencer to present an alternative memo. Seconded by Councilor Costa the motion passed 4-2, Councilors Durfee and Leonard opposed.

#### **NEW BUSINESS:**

#### **Town Council – Landfill Subcommittee/ Recycle - No Bin/No Barrel and PAYT Programs Forwarded From June 29<sup>th</sup> Workshop**

##### **a. Town Solicitor Draft Ordinance Amendment**

Councilor Durfee made a motion to advertise the proposed ordinance, No Bin/No Barrel, for the second meeting in August, Councilor Leonard seconded the motion to advertise for a Public Hearing on August 24<sup>th</sup>. Solicitor Teitz noted the ordinance would take effect upon passage. Motion passed unanimously.

Councilor Arruda questioned the practicality, maybe should say blue or green bin. DPW Director Berlucchi believed in order for the program to be successful both bins had to be out. Resident Virginia Butterworth viewed this as a hardship for senior citizens and presented the Council with a letter. Councilor Lambert, liaison on the Landfill Committee noted there would have to be an action by the Council to not pick up trash. Ms. Butterworth noted the local newspapers had not reported that way; residents need to be fully aware of the proposal. Councilor Arruda noted this needs to be discussed at a Public Hearing. Director Berlucchi noted individual concerns would be addressed.

#### **Council Costa – Discussion Regarding Possible Change to Fiscal Year – Survey of Municipal Fiscal Years for Cities & Towns in RI From Town Solicitor**

Councilor Costa wanted to discuss the possibility of changing the current Fiscal Year (FY). Has not done a lot of research yet, was thinking to change the FY to January 1<sup>st</sup>. However, that means the FTM would be 6 weeks before Christmas. Maybe move the FY to October 30<sup>th</sup>, because year after year State aid is not known before the budget debate. Wanted to propose an ordinance for a Public Hearing moving the Fiscal Year to Nov 1<sup>st</sup>/Oct30th.

Councilor Durfee raised several issues; didn't think this could be done by an ordinance would have to seek State legislation, how do the auditors view this; the Budget Committee would then be meeting over the summer putting the FTM in late September. This needs input from other parties. Councilor Leonard agreed, the Charter Review Commission looked at the possibility but abandoned the idea. needs to be looked at carefully. Councilor Arruda suggested this might be just a matter of postponing the FTM. Solicitor Teitz noted the Town would need State approval, FY set in 1962 by Public Law, would have to ask the General Assembly to change by ordinance, most towns have July 1<sup>st</sup>.

Councilor Durfee suggested the Town Clerk send a letter with regards to the proposal to various boards and departments and get more input. Councilor Durfee noted the alternative; change the FTM. Councilor Arruda noted the Town Clerk would send a letter to the Budget Committee, Assessor, Treasurer, Town Administrator, Board of Canvassers and the School Dept. for their input to be placed on a future agenda.

#### **Councilor Leonard – Request Town Administrator Provide Report Including a Schedule of Forthcoming Department Head Annual Evaluations Per Town Charter section 503**

Councilor Leonard requested the Town Administrator provide a report on scheduling Dept. Head Annual Evaluations. T/A Goncalo has not yet performed the evaluations, has not overseen the Dept. Heads long enough. Will schedule and report.

#### **Councilor Leonard – Request Scheduling a Meeting to Evaluate Methods and Procedures of Council Operations to Identify Possible Improvements**

Councilor Leonard requested a meeting be scheduled to evaluate methods and procedures of Council operations. Has been suggested in the past. Would like to see a weekly report from the T/A as to what is going on. Councilor Durfee suggested next workshop, useful to find out what works or doesn't work.

Councilor Leonard made a motion, seconded by Councilor Lambert to schedule a Governance Workshop August 31, 2009 and for any other items that may be added. Motion passed 5-1, Councilor Costa opposed.

**Councilor Leonard – Annual Evaluation Process for Town Administrator Per Town Charter section 407**

Councilor Leonard raised the issue of performance evaluation process for the Town Administrator. Blank forms were in the Council's packet to review and update, each Councilor gives a rating, forwarded to the Clerk who compiles.

Councilor Roderick made a motion, seconded by Councilor Lambert to continue to the next Council meeting for comments, additions or omissions. Motion passed unanimously.

**TPD Chief Blakey – Request Approval to Advertise and Establish List of Potential Police Officers**

Chief Blakey, Tiverton Police Dept. requested approval from the Council to advertise and establish a list of potential Police Officers, currently have one vacancy, another officer is leaving, concerned about overtime and the time it takes to fill the position. Wants to establish the list and also hire to fill the vacancies.

Councilor Durfee made a motion, seconded by Councilor Roderick to approve the request to advertise and establish a list of potential Police Officers from which hiring shall be made. Motion passed unanimously.

**James Weir, Meeting House, Main Road – Request for Review of Signage in Historic District**

James Weir from the Meeting House, Main Road requested the Council defer enforcement of signage issues within the Tiverton Four Corners district. No property at 4 Corners meets the sign ordinance; 50% of the buildings at 4 Corners non-conforming.

Councilor Lambert made a motion for the Zoning Board to defer action on all sign issues until the Council and Planning Board can review and amend the ordinance in a way that's more harmonious within the district. Councilor Leonard seconded the motion.

Councilor Durfee noted it was a laudable goal but if the Council takes an affirmative vote and someone puts up flashing neon sign, where are we? Solicitor Teitz noted a sign ordinance would not have a retroactive effect Council does not have the authority to direct Gareth Eames, Code Enforcement Officer. Town Administrator can direct Gareth, Council can request the Administrator not to enforce, only way is to create a moratorium but that needs a safety or health crisis. This does not meet that requirement. Anything legally non-conforming could stay. Councilor Costa questioned how it could be selectively enforced.

Councilor Lambert modified his motion in the form of a request to the Town Administrator to the applicable person to defer enforcement of existing sign violations.

Councilor Durfee disagreed, this was not a good policy to set, bad precedent, can see other issues. Councilor Roderick agreed this issue belongs in the Planning Board and Zoning, does not belong before Council. The petitioner should apply for a variance with the proper department. Councilor Lambert then asked for a resolution to request the Administrator to ensure deferred enforcement of any signage ordinance at 4 Corners for the next 3 months. Solicitor Teitz stated unless immediate public safety or health issue should not be done. Councilor Costa seconded the motion.

Vice-President Arruda asked for a vote on the modified motion. Vote was 3-3, Councilors Lambert, Leonard and Costa in favor of the motion, Councilors Arruda, Durfee and Roderick opposed. Motion failed.

**BIDS & REQUESTS FOR PROPOSALS**

**Town Administrator - Request Award of Bid for Animal Shelter Services to Sakonnet Veterinary Hospital**

T/A Goncalo noted \$33,000 was budgeted, bid was \$24,747 with number of kennels reduced from 8 to 6, allows us to use additional kennels at the same rate, cost effective measure, adds services by the vet, asking for authorization to award.

Councilor Lambert made a motion, seconded by Councilor Durfee to award the bid for Animal Shelter Services to Sakonnet Veterinary Hospital. Motion passed unanimously.

#### **TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS**

1. Tax Assessment Board of Review is still looking for one volunteer, send appointment request to Town Administrator.
2. Bulgarmarsh Park update-meeting was set with DEM for 7/8/09, then rescheduled for 7/10/09, no one showed, attempted to reschedule, grant for \$18,000 wording indicates grant expires 6/30/08, has verbally indicated will be extended to 2010. Have expended \$30,000, want to review for reimbursement \$15,000. Want to increase grant to \$40,000, will take DEM on site tour, Recreation Committee refocused, commencing to refurbish and install two basketball courts.
3. Audit as of 6/30 awaiting Auditor General approval, submission was fine.
4. School update-received keys to schools last week, buildings clean and swept, in good shape, electricity and insurance changed to Town. Estimate electric at Nonquit \$150/month and Ranger \$275/mo. Insurance for Nonquit \$1,611 and \$2,346 for Ranger.
5. Senior Center will have a driver safety program for residents over 50 in conjunction with AARP, call 625-6790.
6. Chamber of Commerce hired John Flanders for EDC website, review in 45 days, also produce pamphlets.
7. Per Cong. Kennedy's Office-House Financial Services Appropriations bill includes \$80,000 for the Industrial Park through the Newport Chamber of Commerce.
8. Hambly Road Radio Tower getting a grant for \$2,092 for FY09 and \$2,400 for FY2010 to help offset cost of electricity.
9. Streetlight reduction-half of our request has been completed.
10. Received a letter from the South Kingstown Fire Chief acknowledging assistance provided during their recent loss. Giving recognition to those members of the Tiverton Fire Dept. who on their own time, at no cost to the Town.
11. Tiverton Land Trust is having a fundraiser at Ferrolbink Farm on 7/23 from 6:00 pm to 9:00 pm.
12. Tax Collection summary for 08 26.41% and 09 25.73%, .68% behind or \$219,000.

#### **COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:**

Councilor Durfee questioned the Treasurer as to when the Council would receive year-end reports from June 30. Treasurer responded has drafted reports and shared with Town Administrator. On target for next meeting with final draft. Spoke to Auditor General on Auditors, needed additional paper work from audit firm.

#### **TOWN SOLICITOR, ANNOUNCEMENTS, COMMENTS AND QUESTIONS:**

##### **Vote for Unsealing of Corvello vs SU (Bay Street: Settlement Agreement and Memorandum of Understanding)**

Solicitor Teitz, with regard to the Bay Street Settlement Agreement, documents have been signed by the Attorneys and relevant parties. All requirements for settlement are not yet completed, signatures of all various complainants needed, final closing not anticipated for several weeks. Basic agreement signed, not confidential, contacted other parties, and did not object to Town disclosing. The Memorandum of Understanding and Settlement Agreement could be unsealed but the Executive Session documents remain sealed for now. Solicitor Teitz handed the Council a proposed press release titled Settlement: Tiverton v. Southern Union.

Councilor Durfee made a motion, seconded by Councilor Lambert to unseal first and then to release Corvello vs. SU Bay Street: Settlement Agreement and Memorandum of Understanding. Motion passed unanimously.

#### **CLOSED EXECUTIVE SESSION**

##### **Town Solicitor - Litigation – 42-46-5(a) (2)**

##### **Town Administrator – 42-46-5(a)(2) – Collective Bargaining - Teamsters, IAFF and IBPO**

**Town Administrator – 42-46-5(a)(5) – Acquisition or Disposition of Town Held Property**

Councilor Durfee made a motion, seconded by Councilor Roderick to enter into Executive Session pursuant to 42-46-5(a)(2)-Litigation. Motion passed unanimously.

Councilor Durfee made a motion, seconded by Councilor Roderick to remain in Executive Session pursuant to 42-46-5(a)(2)-Collective Bargaining-Teamsters, IAFF and IBPO. Motion passed unanimously.

Councilor Durfee made a motion, seconded by Councilor Roderick to further remain in Executive Session pursuant to 42-46-5(a)(2)-Acquisition or Disposition of Town Held Property. Motion passed unanimously.

The Council entered into Executive Session at approximately 9:35 p.m.

The Council returned to Open Session at approximately 10:30 p.m.

**OPEN SESSION:**

Council Vice-President Arruda announced formal action had been taken in Executive Session regarding litigation.

Councilor Roderick motioned to seal the minutes of the Executive Session, seconded by Councilor Durfee. Motion passed unanimously.

**ADJOURNMENT:**

Councilor Roderick made a motion, seconded by Councilor Durfee to adjourn. The motion passed unanimously.

The meeting adjourned at approximately 10:35 p.m.

A True Copy.

ATTEST: \_\_\_\_\_  
Nancy L. Mello, Town Clerk